SUPREME COURT OF THE [illegible]

OCTOBER TERM, [illegible]

TERM No. [illegible]

THE UNITED STATES, APPELLANT

vs.

ADOLPH MANTE

APPEAL FROM THE [illegible]

FILED NOVEMBER [illegible], [illegible]

RECORD, CASE NO. 14432.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1893

TERM NO., 359.

THE UNITED STATES, APPELLANT,

vs.

ADOLPH MARIX.

APPEAL FROM THE COURT OF CLAIMS.

INDEX.

	Original.	Print.
Petition	1	1
General traverse	2	2
Amended petition	3	2
Findings of fact	5	3
Conclusions of law	5	3
Judgment	6	3
Application for and allowance of appeal	7	3
Clerk's certificate	8	3

1 IN THE COURT OF CLAIMS OF THE UNITED STATES.

ADOLPH MARIX
vs.
THE UNITED STATES. } No. 15629.

I.—*Petition. Filed Apr.* 22, 1887.

To the chief justice and judges of the Court of Claims:

The petition of Adolph Marix respectfully represents that he is a citizen of the United States and an officer of the United States Navy, and that he was in the Navy on the 5th day of August, 1882, and the 3d day of March, 1883.

He further sets forth that his record in the Navy is as follows: Midshipman Sept. 26, 1864; graduated June 1, 1868; ensign April 19, 1869; master July 12, 1870; lieutenant May 24, 1872.

The lowest grade held by him since last entering the service having graduated pay was that of master, the annual pay of which is—

	At sea.	On shore.	On leave.
First five years from date of commission	$1,800	$1,500	$1,200
After " " " "	2,000	1,700	1,400

The time spent by him in the volunteer or regular Navy prior to holding said office was 9 years 8 months and 16 days, and if said service be credited to him in said grade he will be entitled to $388.31 under the act of July 15, 1870 (Rev. Stat., sec. 1556), and for said sum he prays judgment.

He further represents that no other action on his claim has been taken, either in Congress or in the Departments, than as above set forth; that no person is interested therein except himself; that no assignment or transfer thereof has been made, and that he is justly entitled to the sum of three hundred and eighty-eight $\frac{31}{100}$ dollars, after allowing all just credits and offsets, and that he has at all times borne true allegiance to the Government of the United States, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, and he believes the facts as stated in the petition to be true.

ADOLPH MARIX,
Per JNO. S. BLAIR.

JOHN S. BLAIR, *Attorney.*

DISTRICT OF COLUMBIA,
City of Washington, ss:

Before me, Robert V. Hughes, a notary public in and for said District and city, personally came John S. Blair, who, being by me duly sworn, saith that he is the attorney for Adolph Marix, and that the facts stated in the foregoing petition are just and true to the best of his information and belief.

JNO. S. BLAIR.

Sworn and subscribed before me this 6th day of April, 1887.

ROBT. V. HUGHES,
Notary Public.

2 II.—*General traverse. Filed July* 8, 1887.

And now comes the Attorney-General, on behalf of the United States, and answering the petition of the claimant herein, denies each and every allegation therein contained; and asks judgment that the petition be dismissed.

And as to so much of the said petition as avers that the said claimant has at all times borne true faith and allegiance to the Government of the United States, and has not in any way voluntarily aided, abetted, or given encouragement to rebellion against the said Government, the Attorney-General, in pursuance of the statute in such case provided, denies the said allegations, and asks judgment accordingly.

ROBERT A. HOWARD,
Assistant Attorney-General.

3 III.—*Amended petition. Filed Jan'y* 12, 1889.

The petition of Adolph Marix respectfully represents that he is a citizen of the United States and officer of the Navy of the United States, and has been so continuously since Sept. 26, 1864, when he was appointed a midshipman. He graduated from the Naval Academy June 2d, 1868; was appointed ensign April 19, 1869; master, July 12, 1870; lieutenant, May 24, 1872. The lowest grade held by him since last entering the service having graduated pay was that of master, which office he held from July 12, 1870, to May 24, 1872. He claims that under the acts of August 5, 1882, and March 3, 1883, he is entitled to credit in said grade with all the time previously spent by him in the Navy, to wit, from Sept. 26, 1864, to July 12, 1870, and entitled to receive all the benefits of such previous service in all respects and in the same manner as if it had been in said grade of master.

He claims (first) the difference between first five years as a master and second five years as a master, from July 12, 1870, to May 24, 1872.

And, second, the difference between the pay of an ensign and master from April 19, 1869, to July 12th, 1870; and the difference between the pay of a midshipman and the pay of a master from Sept. 26, 1864, to April 19, 1869; in all, three thousand nine hundred and thirty-seven dollars and forty-two cents.

He further represents that no action has been taken on this claim by Congress or the departments; that he has borne true allegiance to the United States; that he has made no assignments of said claim, and there is due to him, after allowing all claims and offsets, said sum
4 of $3,937.42, for which he prays judgment.

ADOLPH MARIX,
By JNO. S. BLAIR, *Attorney.*

John S. Blair, being duly sworn, saith that the foregoing facts are just and true, as he verily belives.

JNO. S. BLAIR.

Sworn & subscribed this 12 day of Jan'y, 1889.
[SEAL.] JNO. RANDOLPH,
Asst. Clk. Ct. of Claims.

Filed & allowed Jan'y 12, 1889.

5 *Findings of fact. Filed June 2, 1890.*

This case having been heard before the Court of Claims the court, upon the evidence, finds the facts to be as follows:

I.

The claimant was appointed midshipman in the Navy of the United States September 26, 1864; June 12, 1868, he graduated; April 19, 1869, he became ensign; July 12, 1870, became master; May 24, 1872, became lieutenant.

Conclusion of law.

Upon the foregoing findings of facts the court decides, as conclusion of law, that the claimant is entitled to recover as longevity pay under the acts of July 15, 1870 (16 Stat., 321, sec. 3), and of March 3, 1883 (22 Stat., 472 & 473), in the sum of $373\frac{32}{100}$.

On the authority of Greene's case (25 C. Cls.) and of Rockwell's case (120 U. S., 60).

6 IV.—*Final judgment.*

At a Court of Claims held at the city of Washington, D. C., on the 2nd day of June, A. D. 1890, judgment was ordered to be entered, as follows:

The court, on due consideration of the premises, find in favor of the claimant, and do order, adjudge, and decree that the said Adolph Marix do have and recover of and from the United States the sum of three hundred and seventy-three and $\frac{32}{100}$ dollars ($373.32).

7 V.—*Application of defendants for and allowance of appeal. Filed July 8th, 1890.*

From the judgment rendered in the above-entitled cause on the 2nd day of June, 1890, in favor of claimant, the defendants, by their Attorney-General, on the 7th day of July, 1890, make application for and give notice of an appeal to the Supreme Court of the United States.

JOHN B. COTTON,
Asst. Attorney-General.

Allowed in open court Oct. 29, 1890.

WILLIAM A. RICHARDSON,
Chief Justice.

8 IN THE COURT OF CLAIMS.

VII. ADOLPH MARIX
vs.
THE UNITED STATES. } No. 15629.

I, John Randolph, assistant clerk of the Court of Claims, do hereby certify that the foregoing are true transcripts of the pleadings in the above-